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In re Application of
SASAGAWA, et al.
U.S. Application No.: 10/556,912
PCT No.: PCT/JP04/06890
International Filing Date: 14 May 2004
Priority Date: 15 May 2003
Attorney's Docket No.: 1806.1012
For: HYDROGENATED
COPOLYMER-CONTAINING LAMINATE

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Response to Notification of Defective Response" filed on 23 April 2007 which is being treated as a Petition Under 37 CFR 1.182. Additionally, this decision is in response to applicant's facsimile communication filed on 09 October 2007. The petitions seek to correct the name of record for the inventors Suk Hyun Sa and Dae Sik Kim (as listed on the international application) to Suk Han Sur and Dae Shik Kim (as listed on the declaration).

BACKGROUND

On 14 May 2004, applicants filed international application PCT/JP04/06890. The application claimed a priority date of 15 May 2003 and it designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 15 November 2005.

On 15 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a translation of the international application; and a preliminary amendment.

On 12 June 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 April 2007, applicants submitted an unsigned communication which included an executed declaration and a postcard receipt dated 27 June 2006.

On 09 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the name of the sixth inventor on the declaration did not correspond with that inventor's name as set forth on the international application.

On 23 April 2007, applicants filed a "Response to Notification of Defective Response" which is being treated as a Petition under 37 CFR 1.182.

On 09 October 2007, applicants submitted a facsimile communication which was accompanied a copy of the declaration/power of attorney filed 27 June 2006 and a post card receipt dated 27 June 2006. These papers were treated as a petition under 37 CFR 1.181.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 27 June 2006. A review of the present application reveals that the declaration and power of attorney in response to the Notice of Missing Requirements mailed 12 June 2006 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number. The receipt itemizes declarations executed by the three joint-inventors. The receipt is stamped "Rec'd. OIPE 27 June 2006" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 27 June 2006.

B. Petition under 37 CFR 1.182

Inventor Suk Han Sur

In the published international application, the sixth inventor was identified as Suk Hyun Sa. On the declaration filed 27 June 2006, this inventor was identified as Suk Han Sur. With respect to corrections in an inventor's name, section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the discrepancy in the sixth inventor's name is more than a mere typographical error or a phonetic misspelling of the applicant's name; accordingly, a petition under 37 CFR 1.182 is required in order to correct the inventor's name as requested.

Applicants' petition includes the authorization to charge Deposit Account No. 19-3935 for required fees. Based on this authorization, Deposit Account No. 19-3935 will be charged the requisite petition fee of \$400. The petition explains the discrepancy in the inventor's name and that the spelling of the sixth inventor's has been changed. Accordingly, applicants' explanation of the difference in the spelling of the sixth inventor's name is accepted and noted for the record.

Inventor Dae Shik Kim

In the published international application, the seventh inventor was identified as Dae Sik Kim. On the declaration filed 27 June 2006, this inventor was identified as Dae Shik Kim. Applicant states that the discrepancy between the name of the seventh inventor indicated in the international application during the international phase and the name of the seventh inventor as it appears in the declaration is the result of a misspelling (typographical) error. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the seventh inventor's name is accepted and noted for the record.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

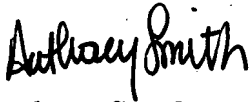
Applicants' petition under 37 CFR 1.182 to correct the name of record for the sixth and seventh inventor herein is **GRANTED**.

The correct name of the sixth named inventor is accepted as Suk Han Sur, as set forth on the declaration filed 27 June 2006.

The correct name of the seventh named inventor is accepted as Dae Shik Kim, as set forth on the declaration filed 27 June 2006.

Based on the correction of the inventor's names, the declaration filed on 27 June 2006 is acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 June 2006.

A handwritten signature in black ink, appearing to read "Anthony Smith". The signature is written in a cursive, flowing style.

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